



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/172803

PRELIMINARY RECITALS

Pursuant to a petition filed February 27, 2016, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on April 20, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly calculated the Petitioner's cost share.

NOTE: The record was held open for one day to allow the Petitioner to provide additional documentation. The Petitioner provided a bank statement covering the period of February 11 to March 10. It has been marked as Exhibit 9 and entered into the record.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On February 24, 2016, the agency sent the Petitioner a notice indicating that she would be enrolled in the Community Waivers health care program (a.k.a. Family Care) with a cost share of \$218.00 per month, effective March 1, 2016. (Exhibit 3)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 27, 2016. (Exhibit 1)
4. Petitioner pays rent in the amount of \$380.00 per month and she pays an electric bill of \$62.00 per month. She has no out of pocket medical expenses. (Testimony of Petitioner; Exhibits 6 and 7)
5. The Petitioner receives \$360 per month in Social Security Retirement Income, but the Social Security Administration (SSA) deducts \$20.00 from her payment. (Exhibits 5 and 9)
6. The Petitioner also receives Social Security Disabled Widow benefits, in the amount of \$883.00 per month. For unknown reasons, the SSA deposited \$750.55 in Petitioner's bank account in March 2016, which reflects a 15% deduction from her gross benefit. (Exhibits 5 and 9)

DISCUSSION

Cost sharing is the monthly amount a waivers participant has to contribute toward the cost of his/her waiver services. *MEH*, § 28.5.1. Payment of the cost share is a condition of eligibility. *Id.*

People eligible for Family Care Medicaid fall into one of the following categories:

Group A eligibility

“Group A members are waiver functionally eligible and Medicaid eligible via SSI...or a full benefits Medicaid subprogram.” In other words, Group A members meet both the functional and financial eligibility requirements for a full benefit Medicaid program.

“Group A members are financially eligible with no cost share”.

Medicaid Eligibility Handbook (MEH), §28.8.2

Group B or Group B Plus (formerly group C) eligibility

Group B members are defined as those not in Group A, but who have gross income at or below the nursing home institutions categorically needy income limit (see [Section 39.4 Elderly, Blind, or Disabled Assets and Income Tables](#)).

Group B Plus members are defined as those not in Group A, who have gross income above the nursing home institutions categorically needy income limit, but whose income does not exceed the cost of the appropriate institutional care by more than the medically needy income limit (see [Section 39.4 Elderly, Blind, or Disabled Assets and Income Tables](#)).

For Group B and B Plus, calculate a cost share based on the member's income and allowable deductions. Count only the income of each individual when you calculate that individual's cost share.

Medicaid Eligibility Handbook (MEH), §28.8.3

The elderly, blind and disabled (EBD) medically needy income limit is \$591.67 and the Institutions Categorically Needy Income limit is \$2,199.00. *MEH* §39.4.1.

Petitioner's *gross* income works out to be: $\$360 + \$883 = \$1243.00$. It is over the medically needy income limit for Medicaid eligibility, but less than the Institutions Categorically Needy income limit. As such, Petitioner is a Group B Family Care Participant.

The cost share calculation for a group B or Group B+ participant is as follows:

Total Income
-Personal Maintenance Allowance
-Family Maintenance Allowance
-Special Exempt Income
-Health Insurance Premium
-Out of Pocket Medical Remedial Expenses
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Cost Share Amount

See *Worksheet F-20919 (08/2015)*; <https://www.dhs.wisconsin.gov/forms1/f2/f20919.pdf>

The Petitioner argues that the agency has not correctly counted her income. Looking at Petitioner's bank statement, this might be true.

Although the Social Security Data Exchange printout provided by the agency shows that the Petitioner receives a gross payment of \$883.00 in Social Security Disabled Widow benefits, Petitioner's bank statement shows that the SSA deposited \$750.55 in Petitioner's account in March 2016. This reflects, exactly, a 15% deduction from her gross benefit. If this 15% deduction is to recoup an overpayment, then pursuant to MEH §15.3.21 Repayments, that income should be disregarded.

It should be noted that the agency disregarded the \$20 deduction from Petitioner's Social Security Retirement income. (See Exhibit 7)

Because it is unclear what the reason is for the 15% reduction in Petitioner's Social Security Widow's benefits, this matter is being remanded to the agency to verify what is going on with the Petitioner's Social Security benefits.

Once it verifies the reason for the deduction, the agency will have to re-determine Petitioner's cost share effective March 1, 2016 and issue to the Petitioner a new notice, advising her of its determination. If the Petitioner disagrees with the agency's determination, the Petitioner will have to file a NEW appeal.

CONCLUSIONS OF LAW

The agency has not met its burden to prove it correctly calculated the Petitioner's cost share effective March 1, 2016.

THEREFORE, it is

ORDERED

That the agency verify, via a Notice of Proof Needed AND data exchange, the Petitioner's Social Security Disabled Widow's income and the reason for the 15% reduction in benefits. Upon receipt of that proof, the agency shall re-determine the Petitioner's cost-share effective March 1, 2016 and issue to Petitioner a new notice of decision. The agency shall take all administrative steps to complete these tasks within 14 days of this decision (the final action date is May 27, 2016).

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 9th day of May, 2016.

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 9, 2016.

Milwaukee Enrollment Services
Office of Family Care Expansion
Health Care Access and Accountability